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IN THE

Supreme Court of the United States

OCTOBER TERM, 1961.

No. 717

PAUL CRUMP,

Petitioner,

vs.

FRANK G. SAIN, SHERIFF,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

BRIEF FOR RESPONDENT IN OPPOSITION.

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QUESTION PRESENTED

As a matter of federal law, is a confession to be held involuntary and inadmissible in a State court criminal proceeding where the record indisputably shows that, within the twenty-four hour period prior to any oral admissions or the signing of any written confession, the prosecuting official immediately honored the petitioner's request to see his lawyer and arranged for the private consultation, which lasted from fifteen to forty-five minutes without any hindrance or interference from the prosecuting authorities and which resulted in the express admonition to the petitioner

that he make no statement and, further, where the record shows that the petitioner testified that he was well treated in the office of the prosecuting official?

STATEMENT[1]

This *habeas corpus* action was originally filed in the United States District Court on July 11, 1958 where it was dismissed for want of jurisdiction. On appeal, the United States Court of Appeals for the Seventh Circuit reversed the order of dismissal and remanded the cause to the lower court. *United States of America ex rel. Crump* v. *Sain* (7 Cir., 1959), 264 F. 2d 424. Thereafter, the trial court ordered the writ to issue on December 24, 1959. A hearing was had in the trial court on May 25, 1960 (Tr. 157-219) wherein William P. Gerber, an attorney, and the petitioner testified. The respondent offered no testimony. The exhibit to his answer consists of the record of the Supreme Court of Illinois, No. 34225, where the challenged judgment was affirmed, *People* v. *Crump*, 12 Ill. 2d 402,[2] and of the record of the Supreme Court of Illinois, No. 33334, in the first trial, which was reversed on an evidentiary point. *People* v. *Crump*, 5 Ill. 2d 251. On November 23, 1960, the trial court entered its Findings of Fact and Conclusions of Law and dismissed this action.

The record in this proceeding reflects the following facts. The petitioner, who was twenty-two years of age at the time (R. 1579) and who earlier had attended high school

1. References to the record of the Supreme Court of Illinois No. 34225, which affirmed the challenged judgment of conviction, are indicated as follows: (R. ....). References to the record of proceedings in the United States District Court are indicated as follows: (Tr. ....). References to the record of the Supreme Court of Illinois No. 33334, which reversed the conviction after the first trial, are indicated as follows: (No. 33334 R. ....).

2. This Court denied his petition for writ of *certiorari*. *Crump* v. *Illinois*, 357 U. S. 906. A petition for rehearing thereon was also denied. *Crump* v. *Illinois*, 357 U. S. 944.

(R. 1417), was taken into custody by officers of the Chicago Police Department on March 20, 1953 and held until March 23 when he was released (R. 79-80). In high school, he participated in wrestling, swimming, and basketball. He was also a member of the bugle corps and the Sons of the American Legion (R. 1417-1418). In his testimony in the State court, the petitioner contended that during this period he suffered physical brutality at the hands of policemen. This was categorically denied by the policemen at the State trial.

After his release on March 23, 1953, the petitioner became ill with a fever and went to the office of Dr. Isaac Rosen for examination and treatment (R. 80-81). During the preliminary hearing on the petitioner's motion to suppress the challenged confession, Dr. Rosen testified on behalf of the State. He stated that, during his examination, he did not discover any bruises or contusions or abrasions of any type. The petitioner did not complain of any bruises or abrasions (R. 351). During the trial of the case before the jury, Dr. Rosen testified on behalf of the petitioner. On cross-examination, he stated that the petitioner did not complain about any lumps, beatings, or injury to his back or his face. He did not display any beating marks. The petitioner complained only of a cold. During his examination, this doctor did not see any bruises, cuts, or lumps on his back. There were no kick marks or swellings on his back nor any injury to his hands (R. 1532-1534).

The petitioner was taken into custody again on March 26, 1953 at his home between 4:30 and 5:00 A. M. (R. 85-86). According to the Bill of Particulars, filed by the petitioner in the United States District Court on January 19, 1960, the critical period in this controversy begins with this arrest. The petitioner arrived at the Criminal Court Building at 5:00 A. M. (R. 91). He claimed that he was physically abused by police officers at the time of arrest,

during the journey to the Criminal Court Building and after his arrival (R. 88-94). These charges were denied by the officers who attended the arrest and delivery to the Criminal Court Building (R. 215-220; 248-251; 269-271; 275-277; 280-282; 284-286; 290-292; 294-297; 301-302). Officer Bongiorno testified that the petitioner was in his squad car. Before they arrived at the court building, they stopped at a restaurant and purchased the petitioner coffee and a doughnut (R. 218).

The petitioner testified that Irwin Bloch, an Assistant State's Attorney, arrived about 7:00 A. M. (R. 94). He was questioned during the day (R. 96). He appeared in the lineup that morning (R. 97; 437). He was returned to the Stock Yards Station where he remained overnight (R. 98). He left the State's Attorney's office about 5:30 P. M. (R. 498). He testified that he did not have any food and could not remember if he was offered any food (R. 98). The attending police officer testified the food was purchased for the petitioner and Eugene Taylor and given to them (R. 498-499).

The following day, Friday morning, after a night's rest, the petitioner was returned to the office of the State's Attorney where he talked privately to Mr. Austin, the First Assistant State's Attorney. Mr. Austin gave him a cigarette (R. 98-99). According to the petitioner, Mr. Austin assured him that he would receive at least a part of the $5,000 reward if the petitioner would assist him in the solution of the Libby McNeil & Libby robbery (R. 100). Mr. Austin denied this (R. 540).

It was at this point that the petitioner requested to see his attorney. This was the petitioner's first request for a lawyer. He did not ask to see a lawyer on Thursday, March 26 (R. 553). Mr. Austin inquired as to who his attorney was and petitioner answered William P. Gerber

(R. 100; Tr. 198). The petitioner testified that Mr. Gerber had handled some legal matters for his family (R. 146). He represented the petitioner in the first trial of this case (Tr. 192). Mr. Austin immediately telephoned Mr. Gerber and advised him that a client wished to speak with him. Mr. Austin then advised the petitioner that Mr. Gerber was on his way, and he and the petitioner remained in the office alone until Mr. Gerber's arrival (R. 100-102). This occurred Friday, March 27, between 11:00 A. M. and 1:00 P. M. (R. 544).

Upon Mr. Gerber's arrival, Mr. Austin left his office to allow the petitioner to speak with his attorney privately (R. 102). Mr. Gerber testified that he was in Mr. Austin's office "a good part of an hour and a half" and that Mr. Austin did not hinder him when he conferred with the petitioner (Tr. 185, 193). In the federal proceeding, the petitioner testified that Mr. Gerber spoke with him about forty-five minutes (Tr. 201). In the state trial, he stated that the conference lasted fifteen minutes (R. 181).

This event was described by the petitioner when he testified on his motion to suppress as follows:

> "Q. And then Mr. Austin again spoke to you?
>
> A. Mr. Austin hung up the phone and he turned to me and said 'your lawyer is on his way, your attorney is on his way.'
>
> Q. Did you remain in Mr. Austin's presence after that?
>
> A. I remained in Mr. Austin's presence until Mr. Gerber came.
>
> Q. Was anybody else present on the arrival of Mr. Gerber, besides you and Mr. Austin?
>
> A. Not in the room where we were in, they were not.
>
> Q. Did you hear Mr. Austin and Mr. Gerber talk to one another?
>
> A. Yes, I did.

Q. What words were passed between Mr. Austin and Mr. Gerber?

A. Upon Mr. Gerber's arrival, he asked to speak with me in privacy, to Mr. Austin. He asked that of Mr. Austin.

Q. And you did speak outside the presence of Mr. Austin with Mr. Gerber?

A. Yes. Mr. Austin left the room and left Mr. Gerber and myself there.

Q. What did Mr. Gerber say to you and what did you say to him?

(Argument between attorneys about attorney-client privilege.)

A. I told Mr. Gerber about the conversation I had with Mr. Austin with regard to my participation in the reward money.

Q. Yes.

A. And Mr. Gerber asked me to tell him word for word what was said and I did; and he told me, he said 'well, you wait just a moment and I will go over and talk with Mr. Austin and see what is the deal here' and he left the room.

Q. Then you went back to Mr. Austin?

A. I was still in Mr. Austin's office then. He left the room.

Q. Then what happened?

A. Then he came back with Mr. Austin, Chief O'Malley, Captain Reynolds. I believe there were three of them. They came back into the room and when they came back, Mr. Gerber told me in front of Mr. Austin, he said 'Now Dick, you hear this, and all the rest of you men for witnesses, I advise this man here not to say anything unless I am in his presence.'

Q. And when he said 'Dick' he referred to Mr. Richard Austin.

A. Yes.

Q. Anything further?

A. He told me, 'Now, you, Paul, if they ask you the time of day, everything is secret, you are to tell

them you cannot answer except upon advice of your lawyer, me.' " (R. 102-105.)

When the petitioner was testifying in the trial of the case before the jury, he summarized Mr. Gerber's advice in the following words:

> "A. Well, they came into the room, and Mr. Gerber addressed me in front of those men I have named. And he told them, 'Now Dick, you hear this. I am advising my client not to say anything to anyone except upon my advice.' And he told me, he says, 'Paul, and if anyone asks you for a match, you tell them you can't give it to them unless you have the advice of your counsel.' He said, 'Do you understand?' I said, 'Yes, sir.' And he asked Mr. Austin and the rest of them did they understand it. They said, yes. Then he walked out." (R. 1465.)

In this regard, the testimony of the petitioner in the United States District Court was substantially the same (Tr. 202). In the federal *habeas corpus* proceeding, Mr. Gerber testified that Mr. Austin said, "I will call you if there is (*sic*) any further statements to be taken." (Tr. 186.) The petitioner never mentioned this in the second trial. There is no evidence on this point in the second trial, which resulted in the challenged conviction. The petitioner, however, did testify as to an alleged agreement by Mr. Austin in the first trial (No. 33334—R. 2544). Mr. Austin denied the existence of any such agreement (No. 33334—R. 2813).

After that, the petitioner testified that he was taken to the lockup room. He remained there from 3:00 o'clock in the afternoon until 10:30 that evening (R. 1465-1466). The officer in charge of the lockup room denied that the petitioner was beaten or abused in any manner (R. 470-471). Then he returned to the office of Mr. Austin (R. 140, 1468). When the petitioner requested to see his attorney at this time he testified that Mr. Austin told him that Mr. Gerber

was in jail for consorting with criminals. Eugene Taylor told him that Mr. Gerber was in jail for consorting with criminals (R. 112-113). On cross-examination on the motion to suppress, the petitioner testified that he believed he told Mr. Austin that he did not want to say anything until he saw his lawyer, and that Mr. Austin said that his attorney was in jail for consorting with criminals (R. 151-154). During recross examination on the trial before the jury he testified that he believed Mr. Austin said his lawyer was in jail for consorting with criminals (R. 1609) although he did not say that he requested to see his attorney. On the trial, Mr. Austin denied that he made any such statement (R. 1677).

The petitioner's testimony during the first trial regarding the claimed arrest of his lawyer presents an entirely different version. He was engaged in a conversation with Harold Riggins and Gene and David Taylor. He had heard from one of these individuals, possibly Gene or David Taylor, that their lawyer was in jail (No. 33334—R. 2560-2562). At no time did the petitioner attribute this statement to Mr. Austin.

The trial of this case on the merits proceeded immediately after the denial of the petitioner's motion to suppress on Friday, December 2, 1955 (R. 651-652). The petitioner testified at length before the jury (R. 1414-1474; 1503-1525; 1535-1611; 1699-1704). At no time did he state or even suggest that he made a second request to see his attorney during the evening of March 27, 1953 when he confessed orally to Mr. Austin.

During the course of the federal *habeas corpus* proceeding, the petitioner insisted that he requested to see his attorney innumerable times (Tr. 223). His own testimony in the State criminal proceeding, however, mentions only two requests: the first request, which Mr. Austin honored when he called Mr. Gerber. The second request which led

to the claimed statement that Mr. Gerber was in jail, and which is disputed by Mr. Austin's testimony.

According to the petitioner, Mr. Austin stated that he had a warrant for the arrest of petitioner's wife (R. 143). During the trial of the case in chief before the jury, the petitioner said that Mr. Austin did not say that the petitioner had better make a statement or he would cause the arrest of petitioner's wife (R. 1608). Mr. Austin denied that he threatened to arrest petitioner's wife unless he made a statement (R. 540; 1677). He denied that anyone in his presence abused or mistreated the petitioner (R. 542).

The petitioner confessed orally to Mr. Austin that night (R. 158-59). Thereafter, Mr. Austin arranged for the petitioner to sleep in the witness quarters, an annex of the County Jail building (R. 1470).

The following morning, the petitioner had a breakfast of coffee, toast and scrambled eggs on the fifth floor of the administrative building of the County Jail (R. 611). He signed the statement at the State's Attorney's office on the morning of March 28. A number of disinterested outsiders were present to witness the signing to protect the prosecution against any frivolous claim of duress (R. 446-447).

That morning, the petitioner was asked as to the kind of treatment he had received (R. 625). Mrs. L. Robert McBlin testified that on the morning of March 28, the petitioner said that he was not abused or mistreated. He had been treated very well while he was in custody (R. 568, 1664). Graydon Megan, who also witnessed the signing, testified that the petitioner stated that he was not mistreated while he was in custody. No threats or promises had been directed toward the petitioner (R. 307, 310, 1670). According to the testimony of Dr. William A. Brams (R. 363, 365, 1690-91), the petitioner stated that he was well treated while he was in custody, and had no complaints. He made

no complaints about his physical condition or any type of physical injury. The doctor found no bruises, welts or marks of physical violence or injury.

The petitioner corroborated the testimony of these persons (R. 626, 1573). On November 29, 1955, during the course of the hearing on his motion to suppress, the petitioner testified that he had received no ill treatment in the State's Attorney's office. He gave substantially the same testimony in the first trial (R. 189-190).

On November 23, 1960, the United States District Judge, after he had heard the testimony of the petitioner and his attorney, William P. Gerber, and had analyzed the entire record of the judicial proceedings in the State of Illinois, entered his Findings of Fact and Conclusions of Law and dismissed this *habeas corpus* proceeding. That Court made two findings on the question of the alleged involuntary confession and the alleged denial of the petitioner's federal constitutional rights. First, he found that the State court correctly determined that the challenged confession was given freely and voluntarily by the petitioner. Second, on the basis of the testimony and record before him in the federal *habeas corpus* hearing, he made his independent finding that "the challenged confession was given by the petitioner freely and voluntarily." These are reflected in his third finding of fact, which reads as follows:

> "3. The record of the entire state court proceeding is entitled *People* v. *Crump*, Supreme Court of Illinois, No. 34225. The respondent has filed this record in this Court and has incorporated it as an exhibit to his Answer. This Court has read the entire state court record and has carefully studied the contents thereof. William P. Gerber, an attorney, and the petitioner testified in this federal court proceeding on behalf of the petitioner. The respondent presented no testimony.

Within the twenty-four hour period immediately prior to the signing of the challenged written confession by the petitioner at the State's Attorney's office, Richard Austin, First Assistant State's Attorney of Cook County, Illinois, in response to the petitioner's request, notified the said attorney, William P. Gerber, that the petitioner desired to speak with him. Upon Mr. Gerber's arrival at the office of the State's Attorney, he was provided with an office where he conferred with the petitioner, privately and without hindrance. Mr. Gerber did advise the petitioner not to say anything further unless he was present. The records of the state court proceeding disclose that the petitioner testified in a judicial proceeding in the Criminal Court of Cook County that he had not received any ill treatment while he was in the State's Attorney's office.

The material allegations of the petition, relating to the question of the voluntary nature of the challenged confession, were fairly raised and fully explored in the state court proceedings, as disclosed by the state court records. They were reviewed and carefully considered by the Supreme Court of Illinois. *People* v. *Crump*, 12 Ill. 2d 402. A petition for *certiorari* was denied by the Supreme Court of the United States. *Crump* v. *Illinois*, 357 U. S. 906.

The petitioner's rights under the federal Due Process Clause and his asserted claim thereunder were accorded full and fair consideration in the state court proceedings.

On the basis of the state court record and of the testimony in this court, the determination of the state court that the challenged confession was given freely and voluntarily by the petitioner and that there was no denial of federal due process of law is correct. The challenged confession was given by the petitioner freely and voluntarily."

The judgment was affirmed by the United States Court of Appeals for the Seventh Circuit. *United States of America ex rel. Paul Crump* v. *Frank G. Sain, Sheriff* (7 Cir., 1961), 295 F. 2d 699. A petition for rehearing was denied by that Court on November 14, 1961.

ARGUMENT.

The United States District Judge did not base his ultimate dismissal of this federal *habeas corpus* proceeding solely upon his determination that the alleged federal claim was fairly raised and fully explored in the State court proceedings, as disclosed by the State court records, and that the State court had correctly determined that the challenged confession was given freely and voluntarily by the petitioner. As a matter of federal law, it would not have been error if the United States District Judge had stopped at this point. This judicial finding, alone, would have justified the order of dismissal. *Brown* v. *Allen*, 344 U. S. 443, 465. The petitioner does not enjoy an absolute and unqualified right to a full hearing. This is wholly within the discretion of the federal district judge. If that judge's determination that the petitioner's federal constitutional rights were protected and satisfied in the state court proceeding does not constitute an abuse of discretion, the district judge is warranted in his denial of relief without any further hearing. *Thomas* v. *Arizona*, 356 U. S. 390, 403.

The United States District Judge, however, accorded a hearing to the petitioner, wherein he and his attorney, William P. Gerber, were given an opportunity to testify. Prior to the taking of this evidence, the district judge stated that he would not allow testimony which had been advanced in the State court proceeding but "I shall offer you the opportunity to present additional testimony or testimony that is different from what has been heretofore given, whether it is by the same witness or other witnesses, but it shall be limited to this new subject matter that has been presented. I do not think we need to go into anything except the new subject matter which has been

brought in here" (Tr. 130). Despite this opportunity, the petitioner presented no new evidence. An analysis of the testimony of these two witnesses (Tr. 173-216) will indicate that it was substantially the same as that given in the State court proceeding. Moreover, the petitioner made no effort whatever to introduce any evidence on his allegations that the State's Attorney had procured witnesses to testify falsely against the petitioner, that the State's Attorney had procured the suppression of any evidence, and that the State's Attorney had conspired with police officers and employees of the firm of Libby, McNeill and Libby to obtain a confession from the petitioner by illegal means—claims which the petitioner advanced for the first time in this federal *habeas corpus* proceeding and which had never been presented to the Illinois courts. By virtue of Rule 52(a) of the Federal Rules of Civil Procedure, which is applicable to *habeas corpus* proceedings, *Rushing* v. *Wilkinson* (5 Cir., 1959), 272 F. 2d 633; *cert.* denied, 364 U. S. 914, the district judge was entitled to examine and appraise the testimony and claims of the petitioner, in the light of all evidence in the proceeding, including the record of the State court proceeding, together with any inconsistencies therein. The district judge exercised this authority and made the independent finding that "the challenged confession was given by the petitioner freely and voluntarily."

We submit that the entire record in this proceeding more than amply supports the findings of the trial court and, accordingly, should not be disturbed. The bare fact of police detention and police examination in private of one in official state custody does not render involuntary a confession by one so detained. *Brown* v. *Allen*, 344 U. S. 443, 476. The failure of state authorities to comply with local statutes requiring that an accused promptly be brought before a magistrate will not render involuntary the con-

fession of one detained under those circumstances. *Crooker* v. *California*, 357 U. S. 443, 437. The refusal of police to permit a prisoner to consult with his lawyer, while being questioned by the police, does not of itself violate the Fourteenth Amendment. *Crooker* v. *California*, 357 U. S. 443, 440-441; *Cicenia* v. *Lagay*, 357 U. S. 504, 508.

I.

The Decision Below Is Clearly Correct.

In his petition, the petitioner appears to create the impression that the detention existed for eight consecutive days and nights. Such is not the case. The first arrest was made March 20, 1953 and the petitioner was released on March 23, 1953. He was re-arrested on March 26, 1953. Three days had intervened. Despite the petitioner's testimony of extreme brutality during the first period of detention, the testimony of Dr. Isaac Rosen, his personal physician, destroys any such contention. The doctor, who examined the petitioner thoroughly shortly after his release on March 23, 1953, stated that he found no injuries or evidence of physical harm. He further stated that the petitioner made no complaints about injury or physical harm. The petitioner complained only of a cold.

The case at bar presents no problem which arises out of police refusal to allow a prisoner to consult with a lawyer while he is being questioned by the police. It is undisputed on this record that the petitioner requested to consult with an attorney, known to himself and to his family, and that the prosecutor *immediately* honored this *first* request and arranged for a meeting. By his own word, the petitioner was allowed to consult privately with the lawyer of his choice. This private conference was held at the State's Attorney's office, lasted from fifteen to forty-five minutes, and was not hindered by the prosecuting author-

ities. He was instructed by his attorney not to make any statement. No contention has ever been made in this proceeding that the petitioner was a person of weak mentality. His high school education and his extracurricular participation in swimming, wrestling and basketball, as well as band activities, would tend to indicate the contrary. The fact that the petitioner, a person twenty-two years of age with high school training, chose to disregard this simple, clear-cut legal advice before the day ended when he made oral statements and less than twenty-four hours later when he signed the confession is his responsibility and not that of the State.

Much is now being made of his alleged second request to see his attorney during the evening of March 27, 1953. This alleged fact now appears to have become the factual cornerstone upon which the petitioner builds his entire argument. Despite the current importance of that factual claim, the petitioner failed to make any mention of it during his long period of testimony in the trial before the jury. His testimony was that he asked his companions why they did not heed Mr. Gerber's advice (R. 1609), and this, if true, indicates that the petitioner was aware of that advice. If this alleged second request for an attorney and the State's Attorney's refusal thereof constituted such an important element in his basic claim of coercion, it is reasonable to expect him to give testimony regarding it before the jury. This glaring failure on the part of the petitioner casts a dark shadow upon the plausibility of his contention.

The testimony that Mr. Austin stated that Mr. Gerber was in jail for consorting with criminals merits the same appraisal. The petitioner so testified during the second trial. During the first trial, however, he received this information from one of his companions in the lockup. Moreover, his testimony in the federal proceeding that he re-

quested a lawyer on innumerable occasions cannot be reconciled with the whole of his testimony in the State proceeding where he testified to only two requests. The first request was honored and his lawyer was called. The circumstances surrounding the second request are disputed.

Prior to his signing the challenged confession, the petitioner was expressly asked whether he was mistreated in the State's Attorney's office. This was his opportunity to voice any complaint which he might have. The petitioner not only failed to complain, but actually stated that he was well-treated. Disinterested citizens, who were present when the petitioner signed the confession, testified that he made no complaint and said he was well-treated. According to Dr. Brams, the petitioner made no complaint of physical harm or abuse. The doctor examined the petitioner and found no evidence of injury or violence. The petitioner did not dispute this but actually corroborated these statements during the course of his own testimony. On November 29, 1955, two years and eight months after the alleged abuse and coercion, he persisted in independent testimony that he was treated well in the State's Attorney. Such admissions by the alleged victim himself are not consistent or compatible with any claim of coercion.

II.

There Is No Conflict of Decisions.

1. The decision below does not conflict with *Crooker* v. *California*, 357 U. S. 433. In *Crooker*, the prisoner's request to see an attorney was denied. Such is not the case in this proceeding.

2. There is no conflict with *Spano* v. *New York*, 360 U. S. 315. In *Spano*, the prisoner was named in an indictment and the judicial proceeding had commenced when the challenged confession was taken. The prisoner's request

to see his attorney was refused. The confession was obtained through trickery, which was practiced upon the prisoner by a close friend, who was a member of the police force. These elements are absent in the instant proceeding. The petitioner was not held incommunicado. He conferred with his attorney.

3. The decision of the Supreme Court of Illinois in *People* v. *Jackson*, 23 Ill. 2d 263, presents no conflict. In that case, the Court excluded a judicial confession given in a preliminary hearing because the defendant was unattended by counsel and was not advised of his constitutional right against self-incrimination. The decision is consistent with the spirit of *Spano*. It correctly distinguished this situation from that of an extrajudicial confession. *People* v. *Jackson*, 23 Ill. 2d 263, 265.

III.

There Is No Important Question of Federal Law.

The decisions of this Court in *Crooker* and *Cicenia* support the proposition that the refusal of police to permit a prisoner to consult with his lawyer, while being questioned by the police, does not of itself violate the Fourteenth Amendment. In this proceeding, however, the State's Attorney honored the petitioner's request to see his attorney. That attorney did advise the petitioner within the twenty-four hour period prior to the signing of the confession but the petitioner chose to disregard it. This occurred on March 27, 1953. The previous night, namely March 26, 1953, he had not been questioned by the State's Attorney. He left the office of the State's Attorney on March 26, 1953 about 5:30 P. M. and was taken to a police station where he was fed and where he remained overnight. When he signed the confession on March 27, 1953, the petitioner made no complaint. On the contrary, he has persisted in his statement that he was well treated.

CONCLUSION.

In view of the foregoing, it is respectfully submitted that the petition for writ of *certiorari* should be denied.

Respectfully submitted,

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March 13, 1962.